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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/239,878    01/29/99    BOYER    M    07091-006001

PM82/0620

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EXAMINER

STEPHAN, B

ART UNIT

PAPER NUMBER

3635

DATE MAILED:

06/20/01

03

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/239,878

Applicant(s)

BOYER ET AL.

Examiner

Beth A Stephan

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 30-35 is/are pending in the application.
- 4a) Of the above claim(s) 30-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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Receipt is acknowledged of the amendment filed 4/23/01. Claims 30-32 have been renumbered under Rule 126 to claims 33-35 because claims 30-32 already ~~are~~ have been entered into the application but withdrawn from consideration as being drawn to a nonelected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 33 is rejected under 35 U.S.C. 102(b) as being anticipated by Guardiani'598. Guardiani teaches a modular vault comprising a seamless housing body, see Figure 6-10, formed as a single piece, the body having portions defining a front wall having a door frame opening, see Figure 9, a rear wall, two side walls, a roof and a floor, and a door mountable in the door frame opening.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guardiani'598 as applied to claim 33 above, further in view of Speer'817. Guardiani teaches the vault discussed previously but lacks the use of hooks, and additional walls with the vault.

Speer teaches a vault(10) having hooks(27) for facilitating hoisting of the vault. It would have been obvious for one having ordinary skill in the art at the time of the invention to have provided the vault of Guardiani with the hooks of Speer to aided in hoisting the vault to place it where it needs to be.

The number of walls used for the vault of Guardiani is deemed a matter of obvious design choice for a skilled artisan given the intended use of the vault and the desired shape of the space to be made.

### ***Response to Arguments***

Applicant's arguments filed 4/23/01 have been fully considered but they are not persuasive.

Applicant's argument regarding the Guardiani reference is disagreed with by the examiner. The walls, floor, and roof of Guardiani are made integral and seamless as shown by Figures 6 and 7 of the reference. The statement made by the examiner in the Office Action mailed 2/25/00 no way should be construed to mean that the walls, floor, and roof of the Guardiani reference are made separately and then interconnected. As shown by Figures 6 and 7 of the reference the body is unitary with no seams. Although the reference states in the claims that the horizontal and vertical surfaces are connected


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this does not preclude the body from being seamless and formed as a single piece as shown by Figures 6 and 7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth A Stephan whose telephone number is (703) 308-2485. The examiner can normally be reached on M-Th, 7:30 - 6:00 pm.

The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



Beth A Stephan  
Primary Examiner  
Art Unit 3635

BAS  
June 19, 2001